

REMARKS

I. CLAIM AMENDMENTS

Applicants have amended claim 28 to depend from claim 1. No new matter has been added. Claim 28 originally depended indirectly from claim 1 via claims 24 and 26.

After amending the claims as set forth above, claims 1 - 28 are now pending in this application.

II. RESTRICTION REQUIREMENT

In response to the restriction requirement set forth in the Office Action mailed June 15, 2009, Applicants hereby provisionally elect Group I, claims 1-20, drawn to a process for making an adapted viable bacterial concentrate, for examination, with traverse.

Applicants request that the Office revise the Restriction Requirement to combine Group I, claims 1-20 with Group IV, claim 28. Claim 28 has been amended to depend directly from claim 1 and thus clearly further defines the process of claim 1 by introducing a step of “adding the liquid concentrate of adapted and viable bacteria to a food product at the end of a production line”. Accordingly, claim 28 properly falls within Group I.

Applicants traverse the restriction requirement. First, the Office has failed to indicate where the Crespo et al. reference (Chem. Eng. Sci., Vol. 47, No. 1, pp. 205-214, 1992; as cited in the Restriction Requirement) discloses a concentrate as presently claimed. In particular, the Office nowhere states how Crespo discloses a liquid concentrate satisfying the limitations “liquid concentrate of adapted and viable bacteria” and “adaptation ... shown by measuring parameters of the culture medium and/or bacteria paramaters”. Second, the Office has failed to establish any undue burden in searching and examining all claims in the present application.

Accordingly, Applicants request withdrawal of the restriction requirement and search and examination of all currently pending claims.

III. CONCLUSION

Applicants believe that the present application is now in condition for search and examination of all pending claims. Favorable reconsideration of the restriction requirement for the claims as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 29-SEP-2009

By 

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